

Remarks

Applicants appreciate the thorough examination of the present application as evidenced by the final Office Action dated September 9, 2003 (the "Final Action"). Additionally, Applicants appreciate the indication that the previous rejections under 35 U.S.C. §§ 112, second paragraph, 112, first paragraph, and 103 as presented in Paper Number 12 have been withdrawn.

Claims 1-3 and 5-9 are pending in the present application. Claims 1-3, 8 and 9 stand rejected. Claims 5-7 have been objected to in the Final Action. The concerns raised by the Examiner are addressed below as set forth in the Final Action.

I. Specification

Applicants have amended the specification to delete the recitation "said" pursuant to the Examiner's suggestion to remove improper language in the Abstract of the Disclosure.

Accordingly, Applicants respectfully request that the objection to the Abstract of the Disclosure be withdrawn.

II. Claim Rejections Under 35 U.S.C. § 103

Claims 1, 2, 3, 8 and 9 stand rejected under 35 U.S.C. § 103(a) as being obvious by Wolff et al., *Journal of Bacteriology*. 173: 4700-4706 (1991) (Wolff et al.) in view of O'Toole et al., *Journal of Bacteriology*. 182: 425-431 (2000) (O'Toole et al.). Applicants believe that the Final Action inadvertently refers to anticipation instead of obviousness.

The Final Action relies upon the combination of Wolff et al. and O'Toole et al. in order to reject claims 1, 2, 3, 8 and 9 under 35 U.S.C. § 103(a). The Final Action acknowledges that Wolff et al. does not teach a culture medium comprising fluoroacetamide. See Final Action, page 4. Thus, Wolff et al. does not teach or suggest the present invention as set forth in the claims of the present application.

Applicants provide herewith a Declaration of Paul V. Phibbs, Jr., Ph.D. Under 37 C.F.R. § 1.131 (the "Phibbs Declaration"), in accordance with the procedure of *In re Katz*. As set forth in the Phibbs Declaration, O'Toole et al. was co-authored by two of the inventors of the present application, Paul V. Phibbs, Jr. and Paul W. Hager, and three additional

authors: George A. O'Toole, Karine A. Gibbs, and Roberto Kolter. Some of the experiments described in the O'Toole et al. reference were under the direction, supervision, or the contribution of one or more of the inventors of the present application.

As noted in the Phibbs Declaration, experiments leading to the discovery of methods of screening for compounds that inhibit the virulence of *Pseudomonas* bacteria comprising providing a culture medium comprising *Pseudomonas* bacteria and an amidase operon repressor, wherein the culture medium contains fluoroacetamide in an amount toxic to the bacteria in the absence of the amidase operon repressor, administering a test compound to the bacteria, and then detecting the poisoning of the bacteria by the fluoroacetamide, wherein the poisoning of the bacteria by the fluoroacetamide indicates that the test compound has antivirulence activity against *Pseudomonas* bacteria were entirely the contribution of Paul Phibbs, Jr. and Paul Hager. Results of some of these experiments are presented in Figure 4 of O'Toole et al. and represent a contribution by only Paul Phibbs, Jr. and Paul Hager.

The authors named on the O'Toole et al. reference who are not included as inventors on the present application did not contribute to the conception of the claimed invention set forth in the present application. Thus, the O'Toole et al. reference does not constitute prior art with respect to the present application and should not be combined with Wolff et al. for the purpose of citing a rejection under 35 U.S.C. § 103(a).

Accordingly, Applicants respectfully submit that claim 1, and claims that depend therefrom, are not unpatentable under 35 U.S.C. § 103(a) in view of Wolff et al. and O'Toole et al., and respectfully request that this rejection be withdrawn.

III. Claim Rejections Under 35 U.S.C. § 102

Claims 1, 2, 3, 8 and 9 stand rejected under 35 U.S.C. § 102(a) as being anticipated by O'Toole et al.

For reasons set forth above, the Phibbs Declaration provides evidence that the O'Toole et al. reference does not constitute prior art with respect to the present application and should not be relied upon for the purpose of citing a rejection under 35 U.S.C. § 102(a).

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Accordingly, Applicants respectfully submit that claim 1, and claims that depend therefrom, are not unpatentable under 35 U.S.C. § 102(a) in view of O'Toole et al., and respectfully request that this rejection be withdrawn.

IV. Claim Objections

Claims 5-7 are objected to under 37 C.F.R. § 1.75(c) as being in improper form. Applicants have amended claims 5-7 to depend from claim 1.

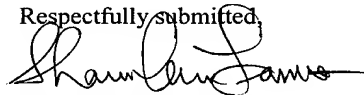
Accordingly, Applicants respectfully submit that claims 5-7 are patentable, and respectfully request that this objection be withdrawn.

V. Conclusion

In view of the foregoing remarks, Applicants respectfully request that all outstanding rejections and objections to the specification and claims be withdrawn and that a Notice of Allowance be issued in due course. Any questions that the Examiner may have should be directed to the undersigned, who may be reached at (919) 854-1400.

No fee is believed due. However, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 50-0220.

Respectfully submitted,



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Susan E. Freedman

Date of Signature: October 31, 2003